Resolution of Stressed Assets

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Introduction

The Reserve Bank of India (RBI) has always been swift in adapting to ever changing socio-economic scenario. With the recent enactment of the Insolvency and Bankruptcy Code, 2016 (IBC), the RBI decided to harmonize the existing guidelines that were issued time to time, in order to simplify the framework for resolution of stressed assets. The following guidelines are therefore subsumed on issuance of this circular dated 12th February, 2018:

- Framework for Revitalising Distressed Assets
- Corporate Debt Restructuring Scheme
- Flexible Structuring of Existing Long-Term Project Loans
- Strategic Debt Restructuring Scheme (SDR)
- Change in Ownership outside SDR
- Scheme for Sustainable Structuring of Stressed Assets (S4A)

The Joint Lenders Forum (JLF) mechanism is also discontinued. Accordingly, this circular applies to all accounts where the above schemes have been invoked but not yet implemented. However, this circular does not apply to restructuring in respect of projects under development involving deferment of date of commencement of commercial operations (DCCO).

This article is an attempt to guide those reviewing the circular, however, expert advice is recommended, to evaluate the impact on banks, financial institutions and the industry at large.

Early Identification

In order to facilitate early detection of stressed accounts, RBI mandates lenders to identify stress accounts, immediately on default and classify them as Special Mention Accounts (SMA) in the following categories:

SMA – Categories	Principal or interest overdue between
SMA – 0	1 - 30 DAYS
SMA – 1	31 - 60 DAYS
SMA – 2	61 - 90 DAYS

Reporting of Credit Information

Lenders shall report credit information, including SMA classification to Central Repository of Information on Large Credits (CRILC) on all borrowing entities having exposure of INR 5 Crores or above. This report is to be submitted on a monthly basis with effect from 1st April, 2018. Additionally, lenders are required to submit a weekly report, at the close of business every Friday regarding the default of such borrowing entities having exposure of INR 5 Crores or above. The first such weekly report shall be submitted for the week ending 23rd February, 2018.

Implementation of Resolution Plan

Immediately on identification of default, all lenders, singly or jointly, shall ensure to cure the default by initiating Board approved policies for resolution of such stressed assets, including timelines for such resolution. The Resolution Plans (RP) may involve clear actions / plans for:

- Reorganisations
- Regularisation
- Sale of exposures
- Change in Ownership
- Restructuring

Implementation Conditions

The RP shall be deemed to be implemented only if the following conditions are met:

- Borrowing entity is no longer in default
- In case of restructuring, all documentation are completed by all lenders and new capital structure & loan status gets reflected in the books of lenders and borrowers.

Implementation Conditions – Large Accounts (INR 100 Cr & INR 500 Cr)

- The RP involving restructuring / change in ownership in regard to large accounts, i.e., exposure of INR 100 Crores and above shall require independent credit evaluation (“ICE”) of residual debt by credit rating agencies, as specified by RBI.
- Exposures of INR 500 Crores and above shall require two ICE’s.
- RPs which receive a credit opinion of RP4 (Moderate Credit Risk) or better for the residual debt from one or two CRAs, as the case may be, shall be considered for implementation.

IBC reference in case of Larger Accounts (INR 2000 Cr)

In case of exposures of INR 2000 Crores and above, as on 1st March 2018 (“Reference Date”), RP shall be implemented as per following timelines:

- If in default as on reference date, within 180 days from the reference date
- If in default after the reference date, then 180 days from the date of first such default.

If the RP is not implemented within the timeline stipulated above, the lenders shall file insolvency application under IBC within 15 days from the expiry of the said timeline.

If RP involving restructuring / change in ownership is implemented within 180 day period, the account should not be in default at any point in time from the date of implementation of RP up to the date by which at least 20 percent of the outstanding principal debt as per the RP and interest capitalisation sanctioned as part of the restructuring, if any, is repaid. Provided that this specified period cannot end before one year from the commencement of the first payment of interest or principal (whichever is later) on the credit facility with longest period of moratorium under the terms of RP. If the account becomes a default in such specified period, the lenders shall file insolvency application under IBC within 15 days from date of such default.

Prudential Norms

This circular also prescribes revised prudential norms to any restructuring undertaken under the IBC framework or outside the IBC framework. The provisioning in respect of exposures against whom insolvency applications have already been filed, shall be as per their asset classification in terms of Master Circular on Prudential norms on Income Recognition, Asset Classification and Provisioning, as amended from time to time.

Supervisory Review

Lenders will be subject to stringent supervisory and enforcement actions like higher provisioning and monetary penalties, if:

- Lenders fail to adhere to timelines specified in this circular
- Lenders intend to conceal actual status of accounts by evergreening stressed accounts

Disclosure in financial statements

Banks shall make appropriate disclosures in their financial statements, under 'Notes on Accounts', relating to resolution plans implemented. Detailed guidelines will be issued separately.

Conclusion

This circular is very crucial from the stand point of all lenders and is an effective step towards curbing the NPA menace at an early stage. The success is purely dependent on the effectiveness of the disclosures made by the lenders on a timely basis. Compliance requirements have substantially increased, and professionals involved should evaluate this circular in the right spirit. As a fall out of this circular, the RBI is expected to come out with further clarifications.

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